

MINUTES

PUBLIC SAFETY & ENVIRONMENTAL SERVICES COMMITTEE

November 9, 2011

A meeting of the Public Safety & Environmental Services Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Mel Rapozo, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, November 9, 2011, at 9:25 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Dickie Chang
Honorable KipuKai Kualii
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo
Honorable Nadine K. Nakamura, Ex-Officio Member
Honorable Jay Furfaro, Ex-Officio Member

The Committee was called to order and recessed at 9:25 a.m., reconvened at 3:45 p.m., and proceeded on its agenda item as follows:

Bill No. 2419 A BILL FOR AN ORDINANCE AMENDING CHAPTER 15A OF
THE KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO THE KAUA'I COUNTY FIRE CODE
[This item was deferred.]

There being no objections the rules were suspended.

ROBERT WESTERMAN, FIRE CHIEF: Thank you Councilmember Rapozo. Fire Chief Robert Westerman, and I have my Fire Captain for Prevention Daryl Date with me, and the County Attorney assigned to us Mauna Kea Trask.

Today we're here to talk about the changes to the Kaua'i County Fire Code. It comes about every few years as the National Code changes, and then the State Fire Code changes, and then we adopt our amendments to the State Fire Code. The State Fire Code has been adopted, and so now we're doing the County amendments to that State Fire Code.

What I have in the slide here is an overview of some of the areas, some of the areas that have been changed. A couple of those as you will see is the creation of two new accounts to utilize the permitting fees collected within the Fire Prevention Bureau; Establishment of a Fire Department Building Permit Plan Review Fee...

Mr. Rapozo: Hang on real quick. We have a, we've been presented with this PowerPoint, this presentation here. Is this the one?

Mr. Westerman: I'm not sure.

Mr. Rapozo: What am I looking at? Oh this is the wrong one. Sorry, my bad.

Mr. Westerman: That's okay.

Mr. Rapozo: No, I have it in here. I just saw this on my desk, I thought our staff put it there for this presentation, that was...okay, thank you. Okay, proceed.

Mr. Westerman: Again, another one of the areas is the prohibit the selling, buying, and use of aerial luminaries, and then requirements on assembly (inaudible) to post for occupant load signs. Those are the main areas that were changed. For the most part, the Code is pretty much the same; although one of the significant differences in the Code is that we used to be under the Uniform Fire Code in the State, the State changed to the National Fire Code, and they are similar but with a few differences. So the adoption now of this Code corresponds with the National Fire Code. So if you want, we can go through the presentation.

Mr. Rapozo: Sure.

Mr. Westerman: Again, we're adopting the 2006 edition of the National Fire Code which was adopted by the State of Hawai'i on January 1, 2010. One of the changes in the State rules is that the State Code, once it's adopted, we have to adopt our County Codes to it where the State Code becomes the Code within two years. So we'll move along very well in that timeline.

Each of the four Counties of course has to adopt their own model Code and currently Kaua'i, O'ahu, and Maui have adopted or on the current adoption of the '97 Uniform Fire Code, Hawai'i is under the '88 Uniform Fire Code. So one of the things that this intends to do is also make it easier for business, if say an architect is in O'ahu and he's designing a building on Kaua'i or Maui, it's fairly similar under the State Fire Code and then the adoption with the County Codes will be very minimal.

One of the other things that we've done in the Code this year is to create the Fire Related Permit Fees, two accounts. One is to create for the Fire Related Permit Fees that were deposited in the General Funds, and the first account is going to utilize those permit fees collected within the Fire Prevention Bureau. So they'll be in an account for fire prevention and not in the General Fund. The second account is

needed to utilize the Fireworks License and Permit Fees. So that's the two accounts that are being created.

So the existing fees to be placed in the Fire Permit Account is prices of assembly currently they have to pay 300, or over 300 occupancy pay \$50.00 annual permit fee. They come in and apply for tents or canopies, those kind of things, there is a \$30.00 fee. Flammable finishes application, that's kind of like the folks that do car painting and stuff, they have to have a licensing fee. Then petroleum tank and liquid tank based on size pay a different fee. So those fees are all currently collected and they currently go in the General Fund and we're asking for a special fund to put them in for us to utilize in the Fire Prevention Bureau.

Those fees that were collected in Fiscal Year 2009-2010 was \$1,130.00. In 2010-2011 we collected \$1,260.00. A little bit of a difference in the increase was because of more tent, temporary tent structures were permitted in that second year.

The Fire Permit Fee Account Usage; this one is for processing permits. Inspection of facilities like a tank install, so this is how we're going to use it. When we have to go out and do that we need to make sure our Fire Inspectors are trained on what to look for during that inspection installation. So this is kind of some of the things that we'll be doing with the funds as we collect them and put them into the account. Training related, overseeing and implementing the permits, again classes unlike LP's storage that kind of item, and then maintenance of the records.

Then there's the Fireworks License and Permit Fees, these are currently being collected. In this example, this is the different fees that are in this particular category like the individual when they want to do, pop their fireworks, they have to come in and get their \$25.00 fee for their fireworks. The individual aerial displays, public displays, that's \$110.00. Import License, Wholesale License, Storage License, Retail License, they don't all get collected on Kaua'i. An example is, we don't have a storage facility so we don't collect the Storage License Fee from any of the purveyors. We did collect the Import License Fee from one purveyor, she was exclusive to Kaua'i so she would always get her Import License. But one of the things about that Import License is you can get it on any island and import into the State; it is exclusive to each individual island. Then the Retail License is when they put them into stores, then they come and grab a permit fee to put them in the stores. And again most of this requires some kind of inspection and audit by the Fire Prevention Bureau.

So the fees collected in the last couple of years for those, 2009-2010 was \$18,830.00 and then \$14,770.00. The main reason for the decrease in the import license was that importer, you got her import license on O'ahu last year.

Then again the usage of the account what we intend on using with that money in that account is processing the permits of course, inspection of facilities. So each retailer that has fireworks in their store, we have to go out and inspect that. We have to do the inventory with the importer before and after and make sure it matches; if it's fireworks make sure it matches their licensing, the right amount of the licensing permits that people had asked for.

Again, training related to providing, provided by (inaudible) purveyors on us to look for the hazards of explosives and then again maintenance and care of the records.

The new one is the Fire Department Plan Review Fee. The Fire Plan Review Fee reviews commercial building permits. Currently we don't review residential permits and on extreme occasion when they have an additional dwelling unit do we review anything other than commercial permits or fences over six feet (6') high. So we don't currently charge this fee and the Code has the application of this fee in it. One of it is due to the extensive training related to overseeing the implementation of the building permits and the time span on processing those and doing the inspections on the facilities. You can imagine the time it takes for our Fire Inspector on a major hotel renovation to be out there as they start to install the fire alarms or sprinkler systems and then the building inspectors also provide some of that service. Then the testing, we have to be there for the testing.

Also the fees would be used with this for training, education, and enforcement, and investigation.

The schedule for this fee is, it's in addition to the existing Building Permit Fee, and the Plan Review Fee calls for 12% of the Building Permit Fee as shown in the Building Code.

Incomplete and altered plans will be charged a fee equal to the original paid for the original proposed project. That would be, that's similar to what's being done right now in the Building Permit Fee.

And again the withdrawals and cancellations before review, refunds of not more than 50% can be granted.

Currently this is to show you where we would be using the money. We have dues and subscriptions we pay which goes to organizations which help support us like NFPA (National Fire Protection Association) and the Arson Investigators Association, those kind of organizations that we belong to, they help support that; our supplies and our equipment and then training. Our training is rugged it's very very limited. With the inspectors come through our Bureau and probably about a two year cycle other than our Training Captain and or our Prevention Captain or

Prevention Lieutenant. The other fire inspectors come through probably on about a two year cycle. So again, it requires a re-training, it's kind of the virtue of the position. The firemen of course would rather be out on the line fighting a fire, but we do have to bring them in and give them the education and experience and then when they're there, we need to provide the training for them to be able to do that job.

The next slide kind of gives you a historical view of the fees if we had charged them and our current spending that we have in those associated areas that we would be spending the money on. In 2010 if we had the Plans Review Fee we would have collected \$52,000.00. In 2011 we would have only collected \$31,000.00. Of course we don't know what we'll collect in 2012. So it's by virtue of how many commercial projects are being permitted through the County. As the economy grows, the amount of fees will increase and of course the amount of work associated with that also increases.

And, kind of getting the same thing, the usage of the fees is for associated training, it's overtime a lot of times for the inspections, and for investigations for fires and stuff like that. So this helps go to pay for those items.

The next thing that's in the Code that's different is the aerial luminary device. This is kind of a new thing, it's kind of well, new to Kaua'i. It's been a little bit of controversy in Hawai'i the last two years. Big Island last year actually confiscated all of their aerial luminary devices from an importer. We didn't put any on the books but we encouraged strongly that they don't import them last year. Some did come, and some did get used. We feel they're kind of a pretty dangerous device. They're an uncontrolled fire, although the industry has an argument on the other side saying that it's really not that dangerous. But basically what it is, it's a, like a hot air balloon. You light a candle underneath of it and it heats up the device and it floats up in the air like a lantern. Then it's free to fly into the wind however the wind direction takes it. That's our concern; it's an uncontrolled heat device. It does have safety features built into it, but our biggest issue with it is it's just an uncontrolled flame flying around that could land and catch any number of things on fire. So we've actually put it into the Code that they will be prohibited on Kaua'i.

The occupancy load signs, if you noticed back in the beginning we did talk about occupancy load signs. Occupancy load signs are required in certain facilities already and are up. You go to any of the major hotels, not all places, yes Tim, if you go to any of the major hotels where the occupancy is large enough, they're already required by Code to put up the occupancy signs. What we're trying to do is target some smaller areas so we can help out enforcement on the other side. Some of the smaller bars and restaurants are not required to have that sign that says how many people can be in there. And so this allows us to set that standard for that establishment and make it safe in the evenings. Some do change their occupancy

from one type in the morning to another type at night. So this will help us to ensure that we don't overload those kind of occupancies late in the evening.

Okay, one of the other things that's in the Code that is external exterior vegetation. Here's where we're talking about the guinea grass that's growing on people's properties all over, whether it be a residential property or an ag lot. It was in our existing code, but in this Code it actually not all of the areas were defined and so we're defining it fully like we had in our existing Code. So it isn't that it's being added to this Code new, it's being added to the Code because this Code excluded it, and that's the next couple of slides.

And again, the last one how they have to maintain kind of is how they have to maintain the brush and within the area of growth around their facility or other structures; maintaining fire breaks. There are some exceptions in it like stabilizing soil, maybe just restrict the height but they can still have it. And then also the removing of trees and extensions within certain feet of chimneys. We don't have many here, chimneys, but we do have a lot of trees that overhang houses. Again, these are in the old code, we're just ensuring that they're back in this code.

Okay, so that's the presentation on the major differences between the old Code and the new Code; essentially the Code is the same. The way we do this is that we're getting rid of the entire old Code and putting in the entire new Code.

Mr. Rapozo:

Thank you Chief, any questions? Mr. Chair.

Chair Furfaro:

Thanks Chief. Have you talked to Finance about how we're handling this Fee Account?

Mr. Westerman:

Yes.

Chair Furfaro:

I mean, what is the process? They're going to be paying this fee just like the Building Code one we have there. There's a minimum amount there that you can draw on. Is that how you're handling this with Finance?

Mr. Westerman:

Yes. They've established two accounts for us in the Special Funds area of the General Funds Account.

Chair Furfaro:

Okay.

Mr. Westerman:

And we have two accounts, one for each set of permitting fees. So it's only expendable up to the money that's collected and put in there.

Chair Furfaro: And then may I ask, is there an intent to have a minimum amount in that account? Have you gotten that far? If you haven't that's fine.

Mr. Westerman: I don't know why there would be a minimum amount.

Chair Furfaro: Because if all of sudden you have a need for fire equipment and so forth, you have a balance in that account.

Mr. Westerman: Oh I see what you're saying. No, I don't see that there's a minimum. I'm not intending to go buy fire equipment with this money; that's not what this money is for. This money is to support the Fire Prevention Program.

Chair Furfaro: Yes, that's what I meant.

Mr. Westerman: The training and equipment that they need for the Fire Prevention Program. It's not to buy fire trucks or...

Chair Furfaro: So let me rephrase that. I understood that, I mean you're not going to have \$380,000.00 in that account.

Mr. Westerman: Sorry.

Chair Furfaro: But you know if you need training equipment...

Mr. Westerman: Yes.

Chair Furfaro: There's an account?

Mr. Westerman: Yes.

Chair Furfaro: Have you had that discussion with Finance?

Mr. Westerman: Well the discussion we had with the Director of Finance and his office was how to set up the account.

Chair Furfaro: Okay, now I'm going to tell you why. I'm actually an advocate for you on this one.

Mr. Westerman: Right.

Chair Furfaro: Because I don't want them to say now that all of your training equipment needs to come from that account.

Mr. Westerman: Okay. Thanks.

Chair Furfaro: You should have a training budget.

Mr. Westerman: Right.

Chair Furfaro: And you should have this other equipment account. Another thing, can you follow up for Building for me? That this building is a maximum capacity of 73?

Mr. Westerman: Oh yes sir.

Chair Furfaro: I'm still waiting for the signage since we went through the parts list.

Mr. Westerman: Right. Okay.

Chair Furfaro: I mean, what's good for the goose got to be good for the gander right?

Mr. Westerman: Yes sir.

Chair Furfaro: So, we need posted the occupancy of this room as 73. Good job Chief.

Mr. Westerman: Thank you sir.

Chair Furfaro: Thank you.

Mr. Rapozo: Thank you Mr. Chair.

Mr. Westerman: Thank you Mr. Chair...Committee Chair.

Mr. Rapozo: No, Mr. Chair. I'm thanking him yes, because he threw a huge hint.

Mr. Westerman: Yes.

Mr. Rapozo: But, I lost my train of thought. But anyway, I did want to thank Mauna Kea and the Chief and of course Daryl. That was one of the concerns I had when I went over the bill, the first draft. I wanted to make sure

that the funds did get collected and placed in a account that was to be used by the Fire Department much like we did with the Spouting Horn vending. I appreciate the work that was done, so thank you very much. Any other questions? This Code is huge, it's a big Code. I don't expect to pass this today. It is in your binders if you don't have it, take a look at it. Again it's a lot easier to follow because they have thrown away all the old Code so everything you read is brand new. Although most of it is the same except for some of the fees. I'm not sure if you're prepared to talk about the fees, the changes in fees today, or any other questions that you may have. Those are the big changes. The fees, the fact that we have the accounts and the certificate or occupancy loads, I think those were the issues that are really the big changes. I know we have issues with occupancies. We've heard it from the Police, we've heard it from the liquor inspectors that they get to some of these bars and it's overloaded; it's just way too many people. But, there are no signs to determine what the maximum occupancy is, so they cannot enforce. So this will help them with the enforcement, so I'm very happy to see that. Any questions for the...Mr. Bynum.

Mr. Bynum: Just one quick one on the, I lost the term already, but clearing the brush away from structures, it's 30 feet and is a fence a structure? How does that get enforced? Is it by complaint or do you actually inspect for that kind of stuff?

Mr. Westerman: The 30 feet is 30 feet away from the structure. So that, it's a little difficult and the definition of how it's applied, although it's pretty clear; it says 30 feet from the structure. But if your structure is 10 feet away from the property line, it's only another 20 feet into the other property line that's 30 feet from the structure. How we go about it today, there's a couple different applications. One is in the residential area, I use an example of a vacant landlord that's moved to the mainland, family here has passed away, the house is here, there's nobody living in it, next thing you know the grass is going up all around it; the Code gives us the opportunity to go in there and say it's a hazard for the immediate community; we can have a clean up around the entire house. If you talk about ag properties and ag lands, but residential property becomes a little more difficult. But our application of it is 30 feet from that fence line. One house might be 10 feet from the fence line, one might be 5 feet from the fence line, and the next one might be 40 feet from the fence line. So it's easier when we work with the landowners to tell them we want at least a 30 feet area cut from the edge of the property line. It's pretty good, they're pretty good about that. We don't go around intentionally looking at every piece of property that could have the growth on it. We do get complaints from neighbors and when they come in, our inspectors go out, they take a look at their property, they usually have a discussion with the land owner, and then we follow up with them on a letter saying – this is what we've asked you to do. We go back within 30 days and usually they've done a very good job of taking care of the problem. Our engine companies when they're out in the neighborhoods, if they happen to see something that's kind of getting a little "iffy" to

them because they're out there more often in different areas, maybe than the inspectors are, they'll call the inspectors and ask the inspectors to go out and look. Although it's in the Code I don't have the staff to just go out and be looking everywhere that it could possibly exist. One of the things we do do very proactively, and we just had a meeting with all the major landowners, is we meet with them once a year and we discuss that; we discuss the Code, we discuss about their responsibilities, and they're very good about it. They come to the table wanting to say, and their side of it is – I've got a water truck, I've got a bulldozer, if I'm in this area, if you need me, here's the number. So we've been very proactive with the landowners trying to get them to keep their areas clean. There are some that have (inaudible) some neighborhoods and they know it, and so they're routinely pretty good about taking care of it. But it's like, especially when you're a big landowner and you've got a lot of property, something might fall by the side and they have to get reminded. Did that answer your question?

Mr. Bynum: Well you answered my...yes, 30 feet from the fence is your application of the...

Mr. Westerman: We can go even farther. The Code says we go farther, but the minimum is 30.

Mr. Bynum: And you respond to complaints and landowners are pretty much proactive?

Mr. Westerman: Absolutely.

Mr. Bynum: And so, you've done a great job on answering my questions.

Mr. Westerman: Thank you.

Mr. Rapozo: Thank you. Ms. Nakamura.

Ms. Nakamura: Thank you Fire Chief. I need to ask you about, you mentioned in here the first account goes into the Fire Prevention Bureau. The fees collected for the first account, to utilize general fire related permit fees collected, so it goes into the Fire Prevention Bureau Account?

Mr. Westerman: Yes.

Ms. Nakamura: Where does the second, the second account is needed to utilize fire work license and permit fees, where does that money get deposited?

Mr. Trask: Well, if you look on the Code, this is going to be on page 37. The interesting thing is, the specifically licensing fees related to fireworks, like Chief said this law is a trickle down from the State. The H.R.S. chapter that deals with it is 132D, specifically section 132D-11. And 132D-11 states that: the licensing fees collected shall be used solely by each County Fire Department to pay for the salary of an auditor of fireworks and articles pyrotechnic records and all expenses incurred to fulfill the duties required, including the inspection of inventory and storage facilities, etc. So that's why that, at least that special account was created and it was going to go into that account pursuant to State law. That's why if you read it, on page 37, this is at the top 6.5. It says that, about the middle: the fees paid and collected pursuant to Section 1.12.20(6) are hereby deemed appropriated upon receipt and may be expended pursuant to H.R.S. 132D-11.

Mr. Rapozo: I think, Mauna Kea, you mean page 52 and 53. You're looking at the old, the amended section is page 52 and 53.

Ms. Nakamura: Oh, thank you.

Mr. Trask: Oh I'm sorry, yes that's correct. Oh, I have the long one.

Mr. Rapozo: Yes, you get the original.

Mr. Westerman: That's correct, it's the long pages so the pages are numbered different.

Ms. Nakamura: So is that the Prevention Division of the Department?

Mr. Westerman: Currently, Councilwoman, the fees go into the General Fund.

Ms. Nakamura: Okay.

Mr. Westerman: These fees are existing and they go in the General Fund. So we're creating a fund, we're creating an account in the Special Funds Account that is for these fees, these fireworks and licensing fees that are currently collected and then they will be utilized only by Fire Prevention.

Ms. Nakamura: Okay.

Mr. Westerman: Yes.

Ms. Nakamura: Got it, thank you. Also, I had a question about the...you mention that the importation license can be paid for on any island?

Mr. Westerman: Yes.

Ms. Nakamura: And as long as the importer gets it from one island, it's, they're covered for the State?

Mr. Westerman: Yes.

Ms. Nakamura: So, do we know what the other islands are charging?

Mr. Westerman: That's the same fees. That fee, it's the same fee.

Ms. Nakamura: Can we, if that's the case, charge a little less to get all of them, to get our fees on Kaua'i?

Mr. Trask: No. Again 132D-11 states that the fee for license required under Section 132D-7 shall be \$3,000.00 for importers, \$2,000.00 for...

Ms. Nakamura: Shall be. Shall be. Okay just asking.

Mr. Westerman: Yes.

Chair Furfaro: Good try, good try.

Mr. Rapozo: Well we should check, maybe that means may.

Mr. Westerman: I'll be quite honest with you, she left because we were putting it in the General Fund. She felt if she was paying a fee for fireworks, it should go to the Fire Department to be used for the auditors and the work. So she went to O'ahu because that's where the money goes.

Ms. Nakamura: Okay.

Mr. Westerman: So we're hoping that with the change of our Code she will come back and buy her import license from Kaua'i.

Ms. Nakamura: And these are annual fees?

Mr. Westerman: And I don't know if we can drag anymore over because she's pretty much the purveyor on Kaua'i.

Ms. Nakamura: Okay.

Mr. Westerman: The rest of them purvey on the other islands.

Ms. Nakamura: Okay. So another question that I have has to do with this new service that we'll be providing which is inspecting the residential, reviewing residential building permits.

Mr. Westerman: No. We don't review any residential building permits.

Ms. Nakamura: Okay.

Mr. Westerman: We review residential building permits only if it's an ADU.

Ms. Nakamura: Okay.

Mr. Westerman: But the new permit, fire building permit fee, is only for commercial permits.

Ms. Nakamura: And you already do this?

Mr. Westerman: We do the inspection, but we don't collect any money for it. We do the permit review, and we do the inspections, and we do all of that but we don't currently bill for it.

Ms. Nakamura: Okay, that's the only thing, is collecting the fee?

Mr. Westerman: Right. Right.

Ms. Nakamura: So it's not, you don't need any new manpower because it's not a new service. It's just, you're doing it already?

Mr. Westerman: Right.

Ms. Nakamura: Okay. Thank you.

Mr. Westerman: It just helps to go provide the training that we need, again especially for inspectors as they rotate through our department.

Ms. Nakamura: Okay. That's all the question about the... are bonfires prohibited on Kaua'i?

Mr. Westerman: Yes.

Ms. Nakamura: Is that, because I thought that's what people do, what schools do at homecomings, is they do bonfires.

Mr. Trask: Yes. It's one of those things where it's always been on the books as illegal, but it just became a cultural thing and...it's just one of those things uniquely Hawai'i right? It's like driving on the beach. It's always been not something you can do on land division property, but it's always been done. And so now you...

Ms. Nakamura: Well, should we have then, should we recognize that this is a annual use for high schools on this island and make provisions to manage that use?

DARYL DATE, FIRE PREVENTION CAPTAIN: When you're talking about bonfires especially for...

Mr. Rapozo: Daryl you have to state your name, I'm sorry for the...

Mr. Date: Excuse me, good afternoon Councilmembers, Daryl Date, Fire Prevention Captain. Pertaining to bonfires for the high schools, the State also regulates fires under the Clean Air Act and they do have provisions for ceremonial purposes to create these fires. They just need to go through the Department of Health and get permits to do it. They also work with the Fire Department as far as any safeguards that are required.

Ms. Nakamura: So that's what they're doing now?

Mr. Date: Right.

Ms. Nakamura: Okay.

Mr. Rapozo: Real quick Nadine, let me just interject real quick, but this would prohibit that? This, as it's written here would not allow any permits to be written? In this draft that we're seeing here, because that exception does clearly state – bonfires are prohibited.

Mr. Date: If it does not qualify as a ceremonial purpose. So regular bonfires, especially on the beach, they are prohibited. That falls under the jurisdiction of DLNR.

Mr. Trask: If, again for the record Deputy County Attorney Mauna Kea Trask, if you think that's something that should be addressed I'm sure we can look in that to clarify. Again we don't want to have any interagency conflicts either between the County or the County and State.

Mr. Rapozo: Yes, I would appreciate it if you'd take a look at that. I mean if it's a DLNR issue and the County doesn't have jurisdiction anyway, then you cannot allow something that is prohibited somewhere else.

Mr. Trask: And just for so I got that, that's on page 55 correct?

Mr. Rapozo: Yes. Right on the top.

Ms. Nakamura: Page 55 at the top. Okay.

Mr. Westerman: I guess some of it by virtue of where they're at too.

Mr. Rapozo: Well and I think what Councilmember Nakamura is saying is, would it be better to remove the exception and then that way we could manage it and dictate where it is versus just allowing it to happen illegally and we just don't have the resources to go and stop it. I see a lot of bonfires on Wailua beach quite frequently. The bigger problem is with bonfires in addition to the obvious fire hazards and dangers, is they use the skips, the palettes, and then after the fire is out the nails remain on the beach; so it causes all kinds of problems.

Mr. Westerman: Right. And that's kind of what we, how we differentiate between a ceremonial fire and a bonfire. Maybe that's, maybe what we ought to do is better clarify that.

Mr. Rapozo: Right.

Mr. Westerman: Then we would have the ability to do the ceremonial fire.

Mr. Rapozo: Then you could really dictate what materials they could use and so forth.

Mr. Westerman: Yes.

Mr. Rapozo: Councilmember Nakamura you can continue, sorry.

Ms. Nakamura: Yes, there's also a section that deals with burn piles that are eight feet (8') wide and four feet (4') high, but maybe that might refer to the bonfires on the beach. But anyway, another question that I had had to do with on page 53 of the bill, Section 1.14.1.1 at the very bottom. Talking about the plan review fee, it says something like – this account shall also be used for materials and equipment related to the Fire Prevention Bureau and public education. The plan review fee shall be as set forth in the annual budget ordinance and shall be paid prior to the issuance of any building permit. And then you go on and talk, and then refer again to the annual budget ordinance. I just didn't understand what you were referring to there; what the connection was between the plan review fee and the annual budget ordinance.

Mr. Trask: That's actually a really good catch Councilmember. You know, like Councilmember Rapozo said, this is a it's a big document this Fire Code.

Ms. Nakamura: Yes.

Mr. Trask: And even after it was submitted, Captain Date and I have been meeting about it and he has identified specifically this section that he would like to amend.

Ms. Nakamura: Okay.

Mr. Trask: So that's something that we're going to propose to strike out.

Ms. Nakamura: Good recovery, that was good.

Mr. Trask: It's the truth.

Chair Furfaro: Thank you very much because earlier, when I used material and equipment the Chief thought I was talking about trucks.

Ms. Nakamura: Also on page 45, relating to public displays of exhibitions, fireworks exhibitions. I was just wondering...

Mr. Rapozo: Okay hang on, Councilmember Nakamura, 45 is...

Ms. Nakamura: Page 45...

Mr. Rapozo: Yes I know, but that is part of the old Code so we have to go find that section in the new Code.

Mr. Trask: Yes, I apologize for that. I tried actually to Ramseyer this new document and it was impossible after the first paragraph. So page 45 is part of the old one.

Mr. Rapozo: So where does that show up? No, 45 is the old...public displays. The section numbers change to yes so it's really hard...

Ms. Nakamura: It's Section 7801.3.1.4.

Mr. Rapozo: Right, and that was in the old section which is all being deleted so we got to find the corresponding...

Mr. Westerman: Is that titled Public Displays?

Mr. Rapozo: Yes.

Ms. Nakamura: This has been deleted?

Mr. Rapozo: Yes. Everything...

Ms. Nakamura: But why was this...

Mr. Rapozo: That's the old bill, that's the existing Code. Let's take a three minute recess BC real quick, three minute recess so we can coordinate the two different codes. Thank you.

There being no objections the meeting recessed at 4:24 p.m., reconvened at 4:26 p.m., and proceeded as follows:

Mr. Rapozo: Okay we'll come back to order. Thank you for your patience. Captain Date.

Mr. Date: Yes. Councilmember Nakamura, the section you were referring to is part of the Code that's going to be stricken. We are not adding that to our amendments because it is stated in the State Code, Hawai'i Revised Statutes 132D.

Ms. Nakamura: Thank you.

Mr. Rapozo: Anything else Councilmember Nakamura?

Ms. Nakamura: Yes, one final question has to do with special revenue accounts.

Mr. Rapozo: Page number?

Ms. Nakamura: Okay I'm looking at page 52, so I'm looking at...

Mr. Rapozo: 5.1.

Ms. Nakamura: Yes. 5.1. And I just wanted to find out just in general, and this might be a Finance Department question, maybe you can answer it: how many special revenue accounts do we have in the Fire Department and...I guess I'd like to, maybe I can reserve this question for Finance Department. Why don't I ask this to you, and then I'll ask a separate question to the Finance Department later.

Mr. Westerman: Yes I think as I read this, I think maybe this was still part of our first cut that we missed. We don't have a, we have these two accounts created but I don't know if they call them a special revenue account. They're in the special 251 special projects and State grants funds accounts. So I don't know if they want to call them the special revenue accounts, but that's what we call them because I guess we didn't have the right terms. Does that mean, but this references those two accounts that they have made, that they made for us to put the money in.

Ms. Nakamura: Okay. And is it the way that these special accounts or whatever we're going to call them, the way they're set up that once we, the funds go in there the Council does not get involved in the administration of the funds and they do not lapse at the end of the year?

Mr. Westerman: Yes, that's correct.

Ms. Nakamura: So I wanted to ask the Finance Department about just general policies about these accounts.

Mr. Westerman: Sure.

Ms. Nakamura: Thank you.

Mr. Westerman: Absolutely.

Chair Furfaro: Excuse me, before you go to Finance, so Chief, do you want that account not to lapse?

Mr. Westerman: Yes. I mean, I don't want to spend it just because it's there. If I have funds left over, a couple thousand of dollars left over that I can apply to the next year for training that might only come every couple years or so, yes I don't necessarily want them to...

Chair Furfaro: Yes. I just want to make sure we understand, you don't want that to end up going being washed out and going to the surplus.

Mr. Westerman: Right. And I understand that's why they put them where they did.

Chair Furfaro: Okay, we're just clear on that.

Mr. Westerman: Yes, thank you.

Mr. Rapozo: I just don't believe you'll run into that problem. With \$1,300.00 in the one account, I think you'll spend that.

Ms. Nakamura: Thank you.

Mr. Rapozo: Thank you. Any other questions?
Councilmember Yukimura.

Ms. Yukimura: (Inaudible) The PowerPoint slide 14 shows a large jump in spending in Fiscal Year 2011 and 2012. I just wondered what the reason was for that, especially when you're not projecting planned fees or is it just that you don't know what the fees are going to be.

Mr. Westerman: No. Actually, the reason it jumped so much in 2012 is because we, in our budget we actually had a fire extinguisher trainer, a digital fire extinguisher trainer for \$15,000.00. That's why there's such a significant jump between those two years.

Ms. Yukimura: And the reason why your fees are flat or zero is because you use... you're in a deficit position?

Mr. Date: Well for 2012, at the beginning of this Fiscal Year I haven't calculated the amount of permits that we actually would have collected money for. But I have, for the past two Fiscal Years.

Mr. Westerman: See, the plan review fee at the bottom, the \$52,000.00 and the \$31,000.00, if we would have been charging the fee, that's what would have been collected; and same thing for that one. We don't know what 2012 will be at through 2012.

Ms. Yukimura: I see.

Mr. Westerman: I mean we can estimate, but usually you can see the big decrease between the two so...

Mr. Rapozo: It would probably be that or lower 2011.

Mr. Westerman: Right. Yes.

Ms. Yukimura: Okay. And then, these luminaries, aerial luminaries, what you're talking about are those tie candles or kites? Is that what you're talking about?

Mr. Date: Referring to the sky lanterns is the most common name.

Ms. Yukimura: Right, right, that is true, that is what they're called. And you said there are some fire protections but they're still a risky thing to have. Do you have any experiences of fires actually being started?

Mr. Date: Luckily on Kaua'i we first saw this last New Year's Eve. There was no fire started by any of these sky lanterns. Some safeguards that they provide, one is the balloon is supposedly fire retardant, but we have seen documentation from Hawai'i Fire Department that they have run tests on a few different types of these products and they show in this documentation that the balloons do burn. The flame that is under this balloon is at least three inches (3") in height, and they burn for approximately 10 minutes.

Mr. Trask: If you recall, this past season or year, or something to that effect, Hawai'i County was actually so concerned about it that they purchased the entire stock of these aerial luminaries on the Big Island.

Ms. Yukimura: They purchased or they confiscated?

Mr. Westerman: Well they confiscated, then they had to purchase.

Ms. Yukimura: Oh. Because they didn't have any underlying law?

Mr. Westerman: Right.

Mr. Bynum: At retail?

Mr. Rapozo: I hear they're selling it really cheap now.

Ms. Yukimura: Well, I mean, I can see that in drought conditions where you have really dry grass and so forth, that would be a concern.

Mr. Westerman: Yes. The drought conditions are a very big concern. Big Island of course has been in a drought longer than we have, there is a lot dryer areas, that's their concern last year. But, we have the same concerns on Kaua'i, we have areas that will dry up and could burn pretty easily.

Ms. Yukimura: Yes. We've had some fires.

Mr. Westerman: And those also, one of the concerns about those, is those aren't, they're ceremonial but they're not Fourth of July, New Years, they're for like any event. So they can be going off in the worst of drought season, it's not like we can regulate them onto a time of year even.

Ms. Yukimura: Okay, thank you.

Mr. Rapozo: Thank you. Councilmember Nakamura.

Ms. Nakamura: I want to go back to that importation license fee, so this is a question for the County Attorney. Mauna Kea, I was wondering, the language, the H.R.S. says that we shall charge \$3,000.00. Are there any restrictions, could we offer a rebate?

Mr. Trask: That's something I can't answer at this time. I think that would be more appropriate for request on opinion. There's so many issues that surround it, one is just like Councilmember Rapozo said, sometimes "shall" is directory; other times it's mandatory. Then when you get into rebates and taxes, you just dealt with some significant issues in another unrelated bill, so that's something I'd feel more comfortable addressing later.

Ms. Nakamura: Okay. Thank you.

Mr. Rapozo: Mr. Chair.

Chair Furfaro: Back to the lanterns, Chief. What is this bill proposed to do with the lanterns?

Mr. Westerman: Prohibit them.

Chair Furfaro: Pure and simple.

Mr. Westerman: Pure and simple.

Chair Furfaro: Okay. Because I saw several of them this summer coming up from 'Anini Beach and when the tradewinds don't switch that late because sun's up late, you got onshore winds that come up from 'Anini and they actually blow into the buffalo grass along the plateaus of 'Anini. So this is an outright prohibiting of these lanterns. Yes, I saw several and I mutually agree with that.

Mr. Westerman: Well we have had complaints from people in that community area and on that coastline that have said they've seen them, and they question us about how safe it is.

Mr. Rapozo: Keep in mind that aerial fireworks have been completely prohibited for many years and yet at night on New Year's Eve, it looks like a war zone in Līhu'e and everywhere else; enforcement will always be an issue. It's hard to track one of them things when they're in the air, especially when there's wind, where did it come from. Mr. Chang.

Mr. Chang: All I wanted to add is that you see quite a bit of them in Hanalei Bay also; all the time in Hanalei Bay.

Mr. Rapozo: I must be sheltered. I have not seen one yet on Kaua'i, but I've seen them on the newscast on O'ahu and they're all over O'ahu. Any other questions for the Fire Department? If not, thank you very much. Anyone here willing to testify? Okay, thank you. I'll call the meeting back to order. Discussion? No discussion? You guys ready to pass it out? We can't pass it out today, we got some amendments that will be prepared by the Administration, the technical clean-ups that came across, also the section involving the account. Chief, if you guys could work on that, or work with our staff so we could get those amendments in the next two weeks. Councilmembers, Committee Members, if you would, please go through these amendments and if there is any questions that you have or clarifications that you need, let me know as soon as possible so we can get the questions over to the Fire Department before the next Committee Meeting. Okay, if no other discussion I will entertain a motion to defer. Make sure you guys are on the Committee.

The meeting was called back to order, and proceeded as follows:

Upon motion duly made by Councilmember Kuali'i, seconded by Councilmember Chang, and unanimously carried, Bill No. 2419 was deferred.

There being no further business, the meeting was adjourned at 4:38 p.m.

Respectfully submitted,



Ihilani C.J. Laureta
Secretary

APPROVED at the Committee Meeting held on December 7, 2011:



DICKIE CHANG, VICE CHAIR, PUBLIC SAFETY & ENVIRONMENTAL
SERVICES COMMITTEE

